

## Message Text

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11  
ACTION EB-11

INFO OCT-01 EA-11 ISO-00 SSO-00 NSCE-00 CAB-09 CIAE-00

COME-00 DODE-00 INR-10 NSAE-00 RSC-01 FAA-00 L-03 H-03

DRC-01 INRE-00 /050 W  
----- 023747

O 190545Z JAN 74  
FM AMEMBASSY JAKARTA  
TO SECSTATE WASHDC IMMEDIATE 419

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FOR EB/TT/OA

EO 11652: N/A  
TAGS: ETRN ID  
SUBJ: CIVAIR: INDONESIA-US BILATERAL

REF: A. STATE 010434 B. JAKARTA 14876 C. STATE 241252  
D. JAKARTA 692

1. SUMMARY: REQUEST DEPARTMENT FURNISH ADDITIONAL  
DETAIL AND BACKGROUND IN PREPARATION OUR APPROACH TO  
DIRECTOR OF AIR TRAFFIC RISAKOTTA PER INSTRUCTIONS  
REF A. END SUMMARY.

2. WE HAVE A PROBLEM WITH DEPARTMENT'S STATEMENT REF A  
IN THAT IF CONFRONTS THE ISSUE IN ENTIRELY NEW LANGUAGE.  
RISAKOTTA HAS NEVER CONTENTED THAT EVERY SERVICE  
OPERATED UNDER PARAGRAPH 1 OF THE BILATERAL HAD TO BE  
MIRROR IMAGE OF ANOTHER. INDEED, SCHEDULE SHOWS THAT  
NOT ALL SERVICES CURRENTLY APPROVED ARE MIRROR IMAGES  
OF EACH OTHER. HIS CONTENTION, AND THE QUESTION WE  
HAVE TO FACE SQUARELY IN REPLYING, IS THAT EVERY SUCH  
SERVICE MUST BOTH ORIGINATE AND TERMINATE IN THE UNITED  
STATES (NOT "SERVE THE UNITED STATES EITHER AS A POINT  
OF ORIGIN OR A POINT OF DESTINATION"). WE ALSO HAVE  
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TO CONFRONT HIS CLAIM THAT THIS IS SO BECAUSE OF INTERNA-

TIONALLY-ACCEPND RULES OF INTERPRETATION EVEN THOUGH THE TEXT OF THE BILATERAL, LITERALLY CONSTRUED, WOULD APPARENTLY PERMIT THE OMISSION OF THE UNITED STATES AS A SERVICE POINT.

3. RISAKOTTA'S INSISTENCE UPON PAA'S BOTH ORIGINATING AND TERMINATING IN THE UNITED STATES IS EVIDENTLY SATISFIED BY TAKING FLIGHTS IN PAIRS WHICH ORIGINATE IN US, PASS THROUGH INDONESIA TWICE, ACW RETURN TO US. AKNCIDENTALLY DEPARTMENT WILL HAVE NOTED THAT IT IS NOT THE FRIDAY FLIGHT BUT THE SATURDAY FLIGHT WHICH DOES NOT HAVE A "COMPANION" ORIGINATING IN THE US. RISAKOTTA EVIDENTLY PICKED THE FRIDAY FLIGHT AS CULPRIT BECAUSE IT IS THE MOST RECENT ONE SCHEDULED BY PAA AND UNLIKE THE OTHERS WAS PUT ON WITHOUT A COMPANION.

4. A FURTHER SPEINIFIC PROBLEM RELATES TO EXAMPLES CITED PARA 4 REF A: INFORMATION ABOUT BILATERALS UNDER WHICH THEY ARISE IS NOT AVAILABLE TO US. THEREFORE WE HAVE NO BASIS ON WHICH TO ARGUE THEY ARE PARALLEL CASES TO THE ONE AT ISSUE. PLEASE FURNISH INFORMATION FROM ROUTE SCHEDULES IN PERTINENT BILATERALS THAT ILLUSTRATES APPLICABILITY OF EXAMPLES.

5. WITH FURTHER REFERENCE TO SEARCH FOR EXAMPLES, CAN DEPARTMENT PROVIDE INFORMATION ABOUT PREVIOUS OCCAISONS WHEN SIMILAR ISSUE WAS EXAMINED?-EG, WHETHER DESIGNATED CARRIER OF A CONTRACTING PARTY MUST BOTH ORIGINATE AND TERMINATE EVERY SERVICE ON A ROUTING LIKE THE ONE IN QUESTION IN CONTRACTING PARTY'S OWN TERRITORY. WOULD BE VERY HELPFUL TO KNOW WHAT WAS OUTCOME IN SUCH CASES AND ON BASIS WHAT LEGAL ARGUMENTS ON BOTH SIDES. CAN ANY ARBITRATION DECISIONS BE CITED IN PARALLEL CASES?RE

6. WITH SPECIFIC REFERENCE TO "WAY OUT" PROPOSED BY

RISAKOTTA PARA 3 REF B: WE CONCLUDE FROM REF A THAT WE MIGHT REPLY TO HIM THAT SUCH A SERVICE WOULD BE APPROVED BY US AUTHORITIES PROVIDED THAT AFTER SERVING HONOLULU IT RETURNED TO INDONESIA. WE ARE AWARE OF COURSE THAT LIMITED OFFICIAL USE

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IN PRACTICAL TERMS THIS MEANS THE FLIGHT WOULD START FROM INDONESIA ON THE NEXT GO. HOWEVER IF WE CAN REPLY AFFIRMATIVELY TO HIS QUERY EVEN WITH THIS QUALIFICATION IT MAY HELP US OUT OF OUR IMPASSE. PLEASE ADVISE.

7. NOW THAT WE ARE COMMITTED TO PROVIDE FULL EXPLANATION OUR POSITION, AND IT HAS BEEN UNDER PREPARATION SINCE DECEMBER 7, BELIEVE LWE CANNOT GO BACK WITH LESS THAN THE

ABOVE. THIS IS MORE THAN A QUESTION OF PRECIPITATING FULL-DRESS CONSULTATIONS, FOR WHICH WE KNOW DEPARTMENT TO BE FULLY PREPARED, BUT IT IS A QUESTION OF GOOD FAITH. TO PRESENT A SKIMPY ARGUMENT NOW WOULD NOT SERVE OUR PURPOSE OF OFFERING RISAKOTTA A WAY OUT OF A PRESUMABLY SHAKY POSITION BUT WOULD SIMPLY HEIGHTEN HIS SENCE OF BEING TAKEN ADVANTAGE OF.

8. INCIDENTALLY, DESPITE RISAKOTTA'S ALLUSION TO "PROMISED LETTER" WE DO NOT INTEND TO ADDRESS A LETTER TO HIM ON THIS SUBJECT. RATHER WE WILL OFFER HIM AN INFORMAL PIECE OF PAPER CONTAINING ARGUMENTATION

DEPARTMENT PROVIDES US IN SUPPORT OF PAA'S CONFORMITY WITH THE BILATERAL.

9. CANDIDLY SPEAKING WE IN THE FIELD HAVESY PROFOUND SENSE OF UNEASE IN DEALING WITH THIS ISSUE, BORN OUR

LACK OF FAMILIARITY WITH PATTERN OF CIVAIR AGREEMENTS. WHAT, FOR EXAMPLE, IS SIGNIFICANCE OF DIFFERENT ROUTING PATTERNS FOR US-DESIGNATED CARRIER (US STOPS AT BOTH ENDS OF THE ROUTE) AND INDONESIAN-DESIGNATED CARRIER (INDONESIA ONLY AT BEGINING OF THE ROUTE)? WHAT PURPOSE

IS SERVED BY MENTIONING SPECIFIC POINTS WHEN AGREEMENT PERMITS BOTH ADDITIONAL INTERMEDIATE STOPS AND OMISSIONS? IT WOULD BE VERY HELPFUL TO HAVE FULLER UNDERSTANDING OF LEGAL BACKGROUND. WOULD ALSO WELCOME CURRENT INFORMATION PAA PLANS THESE SERVICES IN LIGHT OF CURRENT SCHEDULE CUTBACKS TO SAVE FUEL (REF C). IN FACT, HAS DEPARTMENT DISCARDED PROPOSAL TO ARRANGE VISIT OF CIVAIR EXPERT (REF B)? APART FROM PROSPECT OF SETTLING LIMITED OFFICIAL USE

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DIFFERENCES WITH GOI INFORMALLY WE WOULD WELCOME OPPORTUNITY FOR EDUCATION UNDER HIS GUIDANCE.

10. PLEASE BE MINDFUL OF DEADLINE REPORTED REF D. GALBRAITH

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## Message Attributes

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